

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ORIGINAL

**TENTH STREET BUILDING
CORPORATION,
Plaintiff**

V.

CIVIL ACTION NO. 03-359 Erie

**BP PRODUCTS NORTH AMERICA
INC., f/k/a and successor to BP OIL
COMPANY, f/k/a and successor to
BORON OIL COMPANY, and
DONALD
TRAPP,
Defendants**

JUDGE COHILL

Counsel of Record for Defendant

Donald Trapp:
Thomas A. Testi, Esq.
P.O. Box 413
Fairview, PA 16415
Phone: (814) 474-2200
Fax: (814) 474-1902
E-mail: tatesti@surferie.net
Attorney for Defendant,
Donald Trapp

ORDER

AND NOW, this ____ day of September, 2005, upon consideration of the Defendant, Donald Trapp to Dismiss the action filed in this matter and to not lift the stay of proceedings, and upon reconsideration of this Court's Order dated September 7, 2005 which was issued prior to receipt of Defendant Donald Trapp's Motion for Dismissal, which Motion and Brief in Support thereof were filed in a timely manner consistent with this Court's Order dated September 1, 2005, and upon careful evaluation of such

Motions, it is hereby ORDERED that Defendant Donald Trapp's Motion for Dismissal is GRANTED with respect to Defendant Donald Trapp and that this matter shall be dismissed with prejudice against said Defendant Donald Trapp and that otherwise this Court's Order dated September 7, 2005 shall remain in full force and effect with respect to the other parties to this action.

Maurice B. Cohill, Jr.
United States District Court Judge

THOMAS A. TESTI, ESQ.

P.O. Box 413
Fairview, PA 16415

Telephone (814) 474-2200
Fax (814) 474-1902

September 9, 2005

Clerk of Courts
United States District Court for the Western District
Of Pennsylvania
Erie, PA 16507

Dear Sir or Madam:

Re: Tenth Street vs. BP and Donald Trapp
Civil Action No. 03-359 Erie

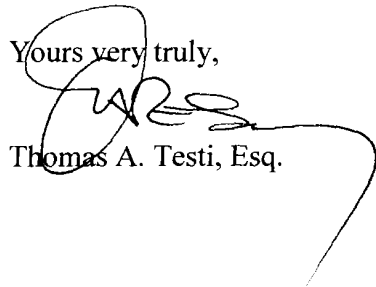
Attached please find my proposed Order for Judge Cohill's consideration relative to my client, Defendant Donald Trapp's Motion for Dismissal and Motion for Reconsideration; this Order may not have been attached to the Motions that were filed earlier this morning with your office. I had modified the Order that was originally attached to the Motion for Dismissal and then apparently inadvertently failed to include the modified Order with the Motion for Reconsideration.

Please forward this proposed Order to Judge Cohill.

I have included a copy of just the three-page Motion for Reconsideration, together with a copy of Judge Cohill's Order dated October 7, 2005, for your convenience in locating the file so that this proposed Order can be included with the other documents filed today.

As always,

Yours very truly,


Thomas A. Testi, Esq.